

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL HOUSING FINANCE AGENCY,
AS CONSERVATOR FOR THE FEDERAL
NATIONAL MORTGAGE ASSOCIATION
AND THE FEDERAL HOME LOAN
MORTGAGE CORPORATION,

Plaintiff,

-against-

NOMURA HOLDING AMERICA, INC.;
NOMURA ASSET ACCEPTANCE
CORPORATION; NOMURA HOME
EQUITY LOAN, INC.; NOMURA CREDIT
& CAPITAL, INC.; NOMURA SECURITIES
INTERNATIONAL, INC.; RBS
SECURITIES INC. (f/k/a GREENWICH
CAPITAL MARKETS, INC.); DAVID
FINDLAY; JOHN MCCARTHY; JOHN P.
GRAHAM; NATHAN GORIN; and DANTE
LAROCCA,

Defendants.

No. 11 Civ. 6201 (DLC)

DECLARATION OF JOHN A. KILPATRICK, PH.D.

1. My qualifications are stated in my May 15, 2014 reports in this action.
2. I have been asked to assess the geographic distribution of the Case-Shiller data relied upon in the expert report and deposition of Michael Hedden for the opinion that markets were increasing at greater than 10% during the relevant time frame and to compare that to the actual geographic and temporal distribution of the Nomura subject properties at issue in the Expert Report Concerning Adherence of Appraisals to Appraisal Standards and Practice I issued in this case dated May 15, 2014 ("Credibility Report").

3. To complete this analysis, I used the same Case-Shiller index data utilized by Mr. Hedden in his report dated August 14, 2014. This home price tiered index data is available for download on the Case-Shiller website.¹

4. Given that all 205 appraisals run through my Credibility Assessment Model methodology (“CAM”) were performed in 2005 or 2006, I pulled the home price tiered index data for 2005 and 2006. Specifically, 68 of the 205 appraisals were performed in 2005. The remaining 137 appraisals were performed in 2006.

5. Using this data, I calculated annual appreciation rates for 2005 and 2006 for the 20 metropolitan areas included in the dataset using the same standard growth formula Mr. Hedden used to support the opinions in his August 14, 2014 report.

6. To determine the annual appreciation rate, I subtracted the “prior” year’s home price index from the “current” year’s home price index, and divided that sum by the “prior” year’s home price index:

$$\text{2005 Appreciation} = (\text{Dec2005 HPI} - \text{Dec2004 HPI}) / \text{Dec2004 HPI}$$

$$\text{2006 Appreciation} = (\text{Dec2006 HPI} - \text{Dec2005 HPI}) / \text{Dec2005 HPI}$$

7. Results were calculated individually for each city, and converted into a percentage format. The data supporting this analysis is attached hereto as **Exhibit 1**.

8. As shown in Exhibit 1, while a number of markets were experiencing double digit appreciation in 2005, only two of the twenty markets were experiencing double-digit appreciation 2006, the year in which over two-thirds of the appraisals at issue were performed. Specifically, Portland, Oregon was right at 10%, and Seattle, Washington was slightly higher at

¹ Calculations based on Case-Shiller data: Additional Info – Home Price Tiered Index Levels, retrieved at <http://us.spindices.com/indices/real-estate/sp-case-shiller-20-city-composite-home-price-index>.

12%. The other eighteen markets all showed appreciation less than 10% in 2006, with two markets not reflecting any appreciation and seven reflecting depreciation from the previous year.

9. In order to analyze how these calculated appreciation rates compared to the actual locations of the properties underlying the 205 Nomura subject appraisals I analyzed utilizing my CAM, I extracted a subset of information for each property from the GADGET and Data Entry databases compiled in connection with my Credibility Report. This data was pulled from the face of the original appraisals with the exception of the “Metro” column, which was derived from the listed city. I also identified whether each appraisal had triggered a score for Questions 4, 13, or 21, the three questions that use a 10% annualized growth threshold. The data pulled for this analysis is attached hereto as **Exhibit 2**.

10. The below table combines the annualized growth rates for the twenty urban markets reported in the Case-Shiller data from Exhibit 1 with the number of Nomura subject properties located in those markets and appraised during the relevant year, as shown in Exhibit 2.

City	2005 Nomura Properties	Case-Shiller Dec. 2004 - 2005	2006 Nomura Properties	Case-Shiller Dec. 2005-2006
Atlanta	2	5%	2	3%
Boston	0	3%	0	-5%
Charlotte	0	6%	1	7%
Chicago	2	10%	2	3%
Cleveland	0	3%	1	-3%
Dallas	0	5%	0	1%
Denver	1	4%	0	0%
Detroit	2	3%	2	-6%
Las Vegas	0	10%	0	1%
Los Angeles	0	22%	1	2%
Miami	0	32%	1	6%
Minneapolis	0	6%	0	-1%
New York	4	15%	2	1%
Phoenix	1	45%	0	0%
Portland	0	22%	1	10%
San Diego	0	7%	0	-4%

City	2005 Nomura Properties	Case-Shiller Dec. 2004 - 2005	2006 Nomura Properties	Case-Shiller Dec. 2005-2006
San Francisco	0	16%	0	-1%
Seattle	0	18%	1	12%
Tampa	0	30%	2	2%
Washington D.C.	0	20%	1	-3%

11. As the above table demonstrates, only nine of the 205 appraisals were for properties located in Case-Shiller markets in 2005. Of those, seven were located in a market “experiencing double-digit appreciation” in 2005 that were appraised during that same year. None of these seven properties failed Question 4, only two failed Question 13, and only two failed Question 21.


12. For 2006, only seventeen of the 205 appraisals I evaluated with the CAM were for properties located in Case-Shiller markets. Of those, only two were both located in a market “experiencing double-digit appreciation” in 2006 and were appraised during that same year. Neither of these properties failed Question 4, one failed Question 13, and the other failed Question 21.

13. Finally, using the “Location” column in Exhibit 2, which was derived from the designations the original appraisers made on the original URAR forms, I performed an accounting of which properties were located in rural, suburban, or urban locations. As summarized in the below table, 78.05% of the subject properties were designated by the original appraisers as being in a “suburban” or “rural” market and not “urban” markets, which are the focus of the Case-Shiller data.

Nomura CAM Properties Location Summary		
Appraiser Reported Location	Counts	Percentage
Rural	3	1.46%
Suburban	157	76.59%
Urban	45	21.95%
Total	205	100.00%

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed this 19th day of December, 2014 in Seattle, Washington.

By: 

John A. Kilpatrick, Ph.D., MAI, FRICS